

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Asencio	Team: Team # 1	CCRB Case #: 200802114	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/06/2008 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 8/6/2009	EO SOL 8/6/2009	
Date/Time CV Reported Wed, 02/06/2008 9:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/11/2008 2:40 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Brian Mullen	00000	906885	044 PCT
2. POM Chris Acker	26388	889474	044 PCT
3. POM Terrence Delgado	11584	939780	044 PCT
4. An officer			044 PCT
5. POM Victor Cardona	07045	934579	044 PCT
6. Officers			044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: At § 87(2)(b) in the Bronx, officers pointed their weapons at § 87(2)(b) and § 87(2)(b)	
B. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke obscenely and/or rudely to § 87(2)(b)	
C. POM Chris Acker	Force: At § 87(2)(b) in the Bronx, PO Chris Acker used physical force against § 87(2)(b)	
D. An officer	Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)	
E. LT Brian Mullen	Off. Language: At § 87(2)(b) in the Bronx, Lt. Brian Mullen made remarks to § 87(2)(b) based upon her perceived sexual orientation.	
F. LT Brian Mullen	Discourtesy: At § 87(2)(b) in the Bronx, Lt. Brian Mullen spoke obscenely and/or rudely to § 87(2)(b)	
G. LT Brian Mullen	Force: At § 87(2)(b) in the Bronx, Lt. Brian Mullen struck § 87(2)(b) with a nightstick.	
H. POM Victor Cardona	Abuse: En route to the 44th Precinct stationhouse, PO Victor Cardona refused to provide his name and shield number to § 87(2)(b)	
I. POM Terrence Delgado	Abuse: En route to the 44th Precinct stationhouse, PO Terrence Delgado refused to provide his name and shield number to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J. An officer	Abuse: At the 44th Precinct stationhouse, an officer strip-searched § 87(2)(b)	

## Synopsis

§ 87(2)(b) filed this complaint by phone with the Internal Affairs Bureau on February 7, 2008. The complaint was referred under log number 08-05039, and it was received at the CCRB on February 11, 2008. On February 6, 2008, at approximately 7:00am, § 87(2)(b) called 911 and reported that her girlfriend, § 87(2)(b) had threatened her with a knife. Lt. Brian Mullen, PO Terrance Delgado, PO Victor Cardona, and PO Chris Acker, all from the 44<sup>th</sup> Precinct, responded to § 87(2)(b) in the Bronx.

Once the officers arrived at the location, § 87(2)(b) and § 87(2)(b) were talking inside the bathroom. The officers banged on the bathroom door and told the women to open the door. Once § 87(2)(b) opened the door, she saw three unidentified officers standing in front of the bathroom door. The officers told § 87(2)(b) and § 87(2)(b) to “freeze” and pointed their weapons at them (**Allegation A**). At that point, one of the officers allegedly said to § 87(2)(b) “Get the fuck out of the bathroom and get on the floor” (**Allegation B**). PO Acker and an unidentified white officer grabbed § 87(2)(b) and § 87(2)(b) by the back of their coats and allegedly slammed them to the floor (**Allegations C and D**). One of the officers asked § 87(2)(b) and § 87(2)(b) for the knife. § 87(2)(b) told the officers that there was no knife. Lt. Mullen allegedly told § 87(2)(b) “This is fuckin’ a whole bunch of lesbian bullshit” (**Allegation E**).

After the lieutenant made the remark, § 87(2)(b) asked him what his problem was. At that point, Lt. Mullen allegedly told her, “shut the fuck up,” and swung his nightstick at her (**Allegations F and G**). Lt. Mullen allegedly struck § 87(2)(b) with the nightstick approximately four times and allegedly repeatedly told her to “shut the fuck up” (**Allegation F continued**). The women were then placed under arrest for § 87(2)(b).

As PO Delgado and PO Cardona transported § 87(2)(b) and § 87(2)(b) to the stationhouse, § 87(2)(b) allegedly asked them for their names and shield numbers. PO Cardona allegedly told her, “You are getting nothing,” while PO Delgado did not respond (**Allegations H and I**). Once at the stationhouse, § 87(2)(b) alleged that an unidentified female officer strip-searched her in the restroom (**Allegation J**). § 87(2)(b) and § 87(2)(b) were released after they decided not to press charges against each other.

§ 87(2)(g)

### Summary of Complaint

## Statements to the CCRB

§ 87(2)(b) filed this complaint with the CCRB on behalf of her sister, § 87(2)(b). On February 13, 2008, § 87(2)(b) provided a telephone statement (encl. 11a). On February 27, 2008, § 87(2)(b) was interviewed at the CCRB (encl. 12a-12q). § 87(2)(b) a § 87(2)(b) Hispanic female, is 5'6" and weighs 170 lbs. A § 87(2)(b)

§ 87(2)(g)

On February 6, 2008, § 87(2)(b) went to her girlfriend's home, which is located at § 87(2)(b) in the Bronx, to pick up her shoes. § 87(2)(b)'s girlfriend, § 87(2)(b) was not home. However, § 87(2)(b)'s roommate, § 87(2)(b) was. Since § 87(2)(b) had gone out the night before and had yet to return, § 87(2)(b) decided to wait for her. At approximately 6:47am, § 87(2)(b) came home and an argument ensued between the two women in the living room. During this argument, § 87(2)(b) asked § 87(2)(b) who she was with, what her problem was, and what she had been doing that caused her to come home at seven o'clock in the morning.

§ 87(2)(b) laughed at § 87(2)(b) and told her that she was "hanging out." § 87(2)(b) told § 87(2)(b) that they would talk about it later because she had to go to work. § 87(2)(b) agreed and § 87(2)(b) walked toward the front door to leave, but § 87(2)(b) followed her. § 87(2)(b) told her, "Listen, we can talk about this later." However, § 87(2)(b) told her that she wanted to talk about it at that moment. At that point, another argument ensued between the women and § 87(2)(b) grabbed § 87(2)(b) by the throat and pushed her face into the wall. The impact caused a mark on § 87(2)(b)'s forehead. § 87(2)(b) then called § 87(2)(b) a "stupid bitch." § 87(2)(b) began to hit § 87(2)(b) on her face, head, and ribs. § 87(2)(b) did not hit § 87(2)(b) but pulled her hair. § 87(2)(b) and § 87(2)(b) were pushing each other back and forth in the hallway and § 87(2)(b) was shouting, yelling, and screaming during the fight.

§ 87(2)(b) walked into the hallway and separated § 87(2)(b) and § 87(2)(b). From the fight, § 87(2)(b) received a bruise on her eye and a swollen lip. § 87(2)(b) did not receive any injuries. § 87(2)(b) asked § 87(2)(b) to go the living room to talk with § 87(2)(b), § 87(2)(b) and § 87(2)(b). § 87(2)(b) agreed, but § 87(2)(b) decided to first go into the bathroom to rinse her face. She entered the bathroom and locked the door. § 87(2)(b) rinsed her face and heard § 87(2)(b) speaking through the door saying, "I want to fuckin' talk to you. I want to talk to you." § 87(2)(b) told § 87(2)(b) to leave her alone. § 87(2)(b) got frustrated and she started kicking the door. § 87(2)(b) got scared and she thought § 87(2)(b) had a knife on her. § 87(2)(b) called the police and told them that she believed that § 87(2)(b) was armed with a knife.<sup>1</sup>

Approximately five minutes later, police officers arrived at the apartment and § 87(2)(b) let them inside the residence. At this time, § 87(2)(b) and § 87(2)(b) were in the bathroom with the door locked, talking about their problem. The officers asked § 87(2)(b) why the bathroom door was locked and they proceeded to bang on it, saying, "Open the door." § 87(2)(b) decided to open the bathroom door even though § 87(2)(b) did not want her to because she was scared. § 87(2)(b) opened the door anyway and saw three uniformed officers, two of whom were identified as PO Terrence Delgado and PO Chris Acker from the 44<sup>th</sup> Precinct, standing in front of the bathroom door. The officers told § 87(2)(b) and § 87(2)(b) to "freeze" and pulled out their guns.<sup>2</sup>

§ 87(2)(b) was told, "Get the fuck out of the bathroom and get on the floor." § 87(2)(b) was not sure which officer gave the command because it sounded to her like all three officers were speaking at once. Nonetheless, § 87(2)(b) and § 87(2)(b) complied, exited the bathroom, and lay on the ground by the bathroom door.<sup>3</sup> The officers did not place § 87(2)(b) or § 87(2)(b) in handcuffs.

<sup>1</sup> In her February 13, 2008 phone statement, § 87(2)(b) stated that she called the police because she knew that § 87(2)(b) was not going to let her out of the apartment.

<sup>2</sup> In her February 13, 2008 phone statement, § 87(2)(b) stated that she saw approximately six officers pull out their weapons.

<sup>3</sup> Earlier in the interview, § 87(2)(b) stated that once she and § 87(2)(b) stepped out the bathroom door, PO Acker grabbed her as an unidentified white male officer with blue-green eyes grabbed § 87(2)(b) by the back of their coats and slammed them to the floor. § 87(2)(b) remembered that PO Acker did not give her any instructions before he grabbed her coat. The unidentified white male officer with blue-green eyes grabbed § 87(2)(b) by the back of her neck. § 87(2)(b) stated that as they were placed face-down on the ground and they were told to, "Shut the fuck up. These are lesbian bitches." § 87(2)(b) asked, "What is going on?" An officer immediately asked § 87(2)(b) and § 87(2)(b) for the knife. § 87(2)(b) told the officers that there was no knife. The officers asked, "Why did you say

As § 87(2)(b) lay on her right side on the ground by the bathroom-living room area, she was instructed to “stay there.” § 87(2)(b) complied, keeping her body still, and looked at § 87(2)(b) and told her to “relax.” Lt. Mullen then stated, “This is fuckin’ a whole bunch of lesbian bullshit.” As § 87(2)(b) lay on the ground, she had a clear view of the lieutenant and PO Acker, who was standing next to him.

After the lieutenant made that remark, § 87(2)(b) asked him, “What the hell is your problem?” § 87(2)(b) stated that she did not raise her voice at him, nor did she use any profanity toward him. Lt. Mullen told her to “shut the fuck up” and swung his nightstick at her face. § 87(2)(b) saw Lt. Mullen swing the nightstick and she raised her right hand in order to block it. When the nightstick made contact with her right hand it slapped back against the right side of her lips. As a result, it cut her lip open. When § 87(2)(b) asked Lt. Mullen what was wrong with him and why he was hitting her with the nightstick, he again told her to “shut the fuck up.” § 87(2)(b) got upset and asked, “Why are you hitting her for? What is wrong with you? Why are hitting her for? She is not doing anything.” § 87(2)(b) then began to kick her legs, but they did not make contact with anyone. The officers instructed § 87(2)(b) to calm down.<sup>4</sup> § 87(2)(b) also instructed her to calm down. § 87(2)(b) complied.

Lt. Mullen then struck § 87(2)(b) again with his nightstick and hit her on the top right side of her breast. § 87(2)(b) asked the lieutenant, “What the fuck is wrong with you? Why are you hitting me?” Lt. Mullen swung the nightstick a third time and it made contact with her left thigh. § 87(2)(b) then said, “This is some bullshit.” Lt. Mullen said, “shut the fuck up, do what I say,” and swung the nightstick one more time. The final blow caused a bruise and an open wound on § 87(2)(b)’s left leg. She stated that were where no other officers hitting her or helping her.<sup>5</sup> § 87(2)(b) also mentioned that she was not resisting or making any movements with her body. During this time, PO Delgado instructed § 87(2)(b) to face the wall.

Approximately three seconds later, Lt. Mullen instructed § 87(2)(b) to get up and she complied. Lt. Mullen grabbed § 87(2)(b) by the back of her coat and instructed her to place her hands behind her back. She complied and he proceeded to handcuff her. An unidentified white male officer with brown hair picked § 87(2)(b) up and told her to place her hands behind her back. § 87(2)(b) complied and she and § 87(2)(b) were taken outside the apartment. PO Delgado and an officer, later identified as PO Victor Cardona from the 44<sup>th</sup> Precinct, transported § 87(2)(b) and § 87(2)(b) to the stationhouse.

Once at the stationhouse, § 87(2)(b) and § 87(2)(b) were instructed to stand in front of the front desk. PO Delgado informed them that he was going to get a female officer to search them. § 87(2)(b) and § 87(2)(b) told him, “No problem.” An unidentified white female officer with long blond hair escorted § 87(2)(b) inside a restroom and instructed her to take off her shirt and unclasp her bra. The officer then instructed her to shake her breasts side-to-side. The officer then told her to put her bra back on and asked her if she wanted to keep her coat on or off. § 87(2)(b) mentioned nothing else regarding the search. After § 87(2)(b) was searched, the women were photographed and fingerprinted. § 87(2)(b) and § 87(2)(b) were then taken to Central Booking and released after they signed a form stating that they were not pressing any charges and did not seek any medical attention. On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) and was prescribed ibuprofen.

#### Photographs

On February 7, 2008, photographs were taken of § 87(2)(b)’s injuries. The pictures show a wound and a bruise on § 87(2)(b)’s left leg and thigh. The pictures also show a wound on § 87(2)(b)’s right upper and lower lip and a bruise on her right breast. § 87(2)(b) also had bruises to her left wrist and right hand (encl. 12f-12m).

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there was a knife?” § 87(2)(b) stated that she thought there was knife. The officers said, “This is bullshit. This is fuckin’ lesbian bullshit.” § 87(2)(b) asked, “What is your problem?”

<sup>4</sup> In her February 13, 2008 phone statement, § 87(2)(b) mentioned that § 87(2)(b) was struck with a nightstick so that she would calm down.

<sup>5</sup> In her February 13, 2008 phone statement, § 87(2)(b) stated that PO Acker hit her with his nightstick.

#### Statements to § 87(2)(b)

According to § 87(2)(b)'s medical records, she went to the hospital on § 87(2)(b). The doctor noted that § 87(2)(b) stated that she had "an altercation with police while being arrested yesterday. Patient stated she was hit with a nightstick and in process got a cut to the lip, multiple abrasions, and bruises." § 87(2)(b) also denied a history of domestic violence in her medical records (encl. 12n-12q).

#### Domestic Incident Report

On February 6, 2008, § 87(2)(b) told PO Delgado, "I, § 87(2)(b) had a fight this morning about 7am with § 87(2)(b). She is my fiancée and we got into a dispute when she came in from a club about 6:30am-6:45am and we had a verbal argument. From the verbal argument it lead into a physical situation and we began fighting" (encl. 24b).

### Results of Investigation

#### Victim Statements

§ 87(2)(b)

§ 87(2)(b) a 5'3" § 87(2)(b) Hispanic female, was interviewed in person at the CCRB on March 6, 2008 (encl. 13a-13f). § 87(2)(b)

§ 87(2)(b). She provided the following statement:

On February 6, 2008, at approximately 7:00am, § 87(2)(b) came home from a nightclub called *Miente*. § 87(2)(b) stated that she drank four Heineken beers at the nightclub but did not come back to her apartment intoxicated. When she walked into her apartment, which is located at § 87(2)(b) in the Bronx, her wife, § 87(2)(b) was waiting for her in the living room. Once § 87(2)(b) saw § 87(2)(b) she immediately told her, "This is the time you come home. Why didn't you pick up the phone?" § 87(2)(b) told § 87(2)(b) that her phone had died. At that point, § 87(2)(b) threw their dog's stuffed chew toy at § 87(2)(b). When § 87(2)(b) threw the toy, it did not hit her. § 87(2)(b) then got up and told § 87(2)(b) "Let me smell you." § 87(2)(b) tried to "smell" § 87(2)(b) and told her, "You smell like a girl. You were with somebody." At that point, § 87(2)(b) became aggressive, grabbed § 87(2)(b) by the front of her shirt by her shoulders, and pushed her. § 87(2)(b)'s body went back against the wall but she braced herself against it.

In the living room, § 87(2)(b) got mad and went to grab § 87(2)(b)'s hair. However, § 87(2)(b) punched § 87(2)(b)'s right eye. § 87(2)(b)'s roommate, § 87(2)(b) got in between the women and stood facing § 87(2)(b) in hopes of getting her arms to stop her from hitting § 87(2)(b). As § 87(2)(b) stood in the middle, § 87(2)(b) attempted to grab § 87(2)(b) by her elbows as she kept hitting § 87(2)(b). § 87(2)(b) was never able to get a hold of § 87(2)(b) because § 87(2)(b) was too "quick," much stronger, and bigger than her. § 87(2)(b) claimed that she did not inflict any injuries on § 87(2)(b) nor did she hit her. She did manage to grab her hair but did not pull it. § 87(2)(b) gave § 87(2)(b) scratches on her neck and a black eye. § 87(2)(b) stated that she fought with § 87(2)(b) for five minutes before § 87(2)(b) stated, "Babe, stop. You are hurting me." § 87(2)(b) stated that § 87(2)(b) was standing in the middle of the two women as they were fighting for those five minutes. § 87(2)(b) stated that § 87(2)(b) was not hit by § 87(2)(b) nor did § 87(2)(b) hit § 87(2)(b).

Once § 87(2)(b) stopped hitting § 87(2)(b) she told her, "I'm done with you. I don't want to be with you." § 87(2)(b) told § 87(2)(b) that was all right with her. § 87(2)(b) took § 87(2)(b) to the bathroom to calm her down as § 87(2)(b) remained in the living room and put ice on her eye. § 87(2)(b) asked § 87(2)(b) if she was going to stay with her or if she was going to go to work. § 87(2)(b) informed the women that she was going to call out sick and stay home with § 87(2)(b). § 87(2)(b) called her employer and called out sick. As § 87(2)(b) sat on the toilet seat, § 87(2)(b) approached and told her that she wanted to speak to her and closed the bathroom door because she did not want § 87(2)(b) involved in their disputes. § 87(2)(b) told § 87(2)(b) that she was sorry and that she was not going to press criminal charges against her.

At that point, § 87(2)(b) heard banging on the apartment door. § 87(2)(b) was talking to § 87(2)(b) inside the bathroom for approximately one minute before she heard the banging on the apartment door. § 87(2)(b) opened the apartment door and § 87(2)(b) heard from the closed bathroom door, men saying, “Get down on the floor.” § 87(2)(b) asked, “Who is that” and approached the bathroom door and opened it. § 87(2)(b) then told § 87(2)(b) to let her exit the bathroom first because § 87(2)(b) had the black eye.<sup>6</sup> As § 87(2)(b) was exiting the bathroom, § 87(2)(b) immediately closed the door and jumped into the bathtub. § 87(2)(b) stated that she closed the door as soon as § 87(2)(b) exited the bathroom because § 87(2)(b) told her that she was going to talk to the officers and did not want the officers to see her black eye.

Approximately one minute later, § 87(2)(b) opened the door after she heard a “boom” and § 87(2)(b) say, “Stop hitting me.” When she opened the door, § 87(2)(b) saw an unidentified “chunky” white male officer with brown hair with his gun drawn and pointed at her. The “chunky” officer told § 87(2)(b) to “freeze,” pulled her by her shirt, and slammed her face down on the ground with her face toward the side. From her viewpoint, § 87(2)(b) was able to see § 87(2)(b). The “chunky” officer then placed his gun in his holster and twisted her right arm against her back. § 87(2)(b) stated that she was not injured as a result but stated that she felt pain in her arm and took Excedrin. The “chunky” officer placed his knee on § 87(2)(b)’s back to hold her left arm against her back and placed her in handcuffs.<sup>7</sup> During this time, § 87(2)(b) was already on the floor by the kitchen area. § 87(2)(b) stated that she did not see when the officer threw § 87(2)(b) to the floor. § 87(2)(b) stated that she knew § 87(2)(b) was thrown to the ground when she heard the “boom.”<sup>8</sup> At that point, § 87(2)(b) saw Lt. Mullen, described as a slim white male with big eyes dressed in a white shirt, and another unidentified white or Hispanic male officer dressed in a white shirt hitting § 87(2)(b). § 87(2)(b) asked them, “What are you doing?”

§ 87(2)(b) observed § 87(2)(b) flat on her back with her left leg in the air higher than her right leg bent toward her chest and her arms covering her face. An unidentified white or Hispanic male lieutenant who was standing by the kitchen doorway hit § 87(2)(b) approximately four times with his nightstick on her arms and chest while Lt. Mullen hit § 87(2)(b) approximately six times on her lower left leg underneath her knee.<sup>9</sup>

§ 87(2)(b) asked the officers, “Why are you hitting me?” § 87(2)(b) was not moving her body in any way but was crying and screaming. § 87(2)(b) indicated that while § 87(2)(b) was being hit she had both arms covering her head. § 87(2)(b) made no physical movements toward the officers, nor did she attempt to get up or have any physical contact with any of the officers. § 87(2)(b) stated that the officers were screaming at her but did not recall what they were saying, except that Lt. Mullen told § 87(2)(b) to “shut the fuck up.” As this took place, § 87(2)(b) was approximately two feet away from § 87(2)(b). § 87(2)(b) was upset and told the officers to stop hitting § 87(2)(b). She stated that she did not raise her voice at the officers and did not move from her position. The officers told § 87(2)(b) to “shut up.” During this time, § 87(2)(b) saw § 87(2)(b) facing the wall by the apartment door.

After § 87(2)(b) was hit, she was turned over and placed face-down on the ground. When § 87(2)(b) was being handcuffed, Lt. Mullen ordered her to “stop moving.” Lt. Mullen pulled § 87(2)(b)

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<sup>6</sup> At the very beginning of the narrative, § 87(2)(b) stated that § 87(2)(b) was instructed by the police to step out of the bathroom.

<sup>7</sup> Later in the interview, § 87(2)(b) stated that she saw the officers hit § 87(2)(b) as she was being placed on the ground.

<sup>8</sup> Earlier in the interview, § 87(2)(b) stated that as soon as she saw the “chunky” officer’s weapon pointed at her, she closed the door and jumped into the tub. Through the closed door, § 87(2)(b) heard § 87(2)(b) say, “Stop hitting me.” The “chunky” officer entered the bathroom and pulled § 87(2)(b) out of the tub and out of the bathroom. Once the “chunky” officer had § 87(2)(b) outside the bathroom, he threw her to the floor.

<sup>9</sup> Later in the interview, § 87(2)(b) stated that unidentified lieutenant was hitting § 87(2)(b) legs and was not standing in the kitchen.

§ 87(2)(b) by the handcuffs to her feet. § 87(2)(b) told Lt. Mullen that it was not right what he and the unidentified white or Hispanic male lieutenant had done when they did not resist arrest. All § 87(2)(b) was trying to do was explain to them that they got into a fight and it got out of hand. Even though § 87(2)(b) hit § 87(2)(b) § 87(2)(b) did not want to press any charges against her.<sup>10</sup> The “chunky” officer then pulled § 87(2)(b) to her feet. An unidentified officer, whom § 87(2)(b) did not recall, told the women that they had a 911 call that someone in the apartment had a knife. § 87(2)(b) stated that there was no knife and neither she, § 87(2)(b) nor § 87(2)(b) called the police.

Once both women were on their feet, Lt. Mullen left and told the “chunky” officer and PO Delgado to transport them to the stationhouse. While they were inside the police vehicle, § 87(2)(b) asked the “chunky” officer and PO Delgado for their names and badge numbers. The “chunky” officer told her, “You are getting nothing,” while PO Delgado did not respond.

§ 87(2)(f)

§ 87(2)(b) The officer then checked for any outstanding warrants and escorted her out of the room. § 87(2)(b) was then taken to the same room by the same officer, but § 87(2)(b) stated that she does not hear what the officer asked her.

PO Delgado then took § 87(2)(b) to the bathroom since her left leg was bleeding. § 87(2)(b) saw the wound and described it as a big circular mark. § 87(2)(b) also told § 87(2)(b) that if she asked to go the hospital now it would delay their arrest process. § 87(2)(b) told § 87(2)(b) to wait and go to the hospital later. On § 87(2)(b), § 87(2)(b) went to the hospital along with § 87(2)(b)

#### Domestic Incident Report

On February 6, 2007, § 87(2)(b) told PO Delgado, “I, § 87(2)(b) had a fight this morning with my fiancée § 87(2)(b). The fight started when I got in late this morning and we had an argument about me coming in at 7am and we got a little out of hand it became physical” (encl. 24d).

#### Attempts to Contact Civilians

§ 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) was present during the incident. On March 13, 2008, the undersigned called § 87(2)(b) and left her a message to call back. On March 14, 2008, the undersigned contacted § 87(2)(b) and scheduled to meet her at the CCRB for a formal interview on March 20, 2008. § 87(2)(b) did not appear for the interview and the undersigned contacted her on March 20, 2008. § 87(2)(b) scheduled a second appointment with the undersigned for April 2, 2008. However, she did not appear for the interview and a “missed appointment” letter was sent to her address. § 87(2)(b) never contacted the undersigned regarding the case.

Since § 87(2)(b) alleged that unidentified white female officer strip-searched her at the stationhouse, the undersigned attempted to contact her to show her a photo array. On April 4, 2008, the undersigned called § 87(2)(b)'s cell phone number and discovered that it was disconnected. The undersigned called her work phone number and left a message asking her to contact the investigator. The undersigned also mailed her a “please call” letter. On April 21, 2008, the undersigned called § 87(2)(b)'s cell phone number and was again informed that the number was disconnected. The undersigned called her work phone number and left her another message. The investigator also contacted § 87(2)(b) for § 87(2)(b)'s phone number. § 87(2)(b) informed the undersigned that § 87(2)(b) had a new cell phone number and was unable to provide the investigator with the number. The undersigned requested a Verizon subpoena for § 87(2)(b)'s address and mailed her a final “please call” letter. On April 30, 2008, the undersigned received correspondence from Verizon Legal Compliance that stated, “No record found for § 87(2)(b).” On May 20 and June 10, 2008, the undersigned called § 87(2)(b)'s cell phone number and received the same message as before. The undersigned then called her work number and

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<sup>10</sup> Earlier in the interview, § 87(2)(b) stated that she did not remember who handcuffed § 87(2)(b), but stated that it was most likely Lt. Mullen.



left § 87(2)(b) a message asking her to call the investigator. § 87(2)(b) never contacted the undersigned by phone or mail.

#### Officer Statements

##### **PO Terrence Delgado**

On February 6, 2008, PO Terrence Delgado, a 6'1" § 87(2)(b)-old Hispanic male, from the 44<sup>th</sup> Precinct worked in uniform with PO Victor Cardona. He worked a 7:05am to 3:00pm tour and was assigned to a common sector. PO Delgado noted § 87(2)(b) and § 87(2)(b)'s arrests in his memo book at 7:47am (encl. 15a-15b).

#### Domestic Incident Report

On February 6, 2007, PO Terrence Delgado prepared a domestic incident report for § 87(2)(b) and § 87(2)(b). He wrote on § 87(2)(b)'s domestic incident report, "At time, place, location, § 87(2)(b) engaged in a fight with § 87(2)(b) causing physical injuries to her chest, lip, and left leg" (encl. 24b).

PO Delgado wrote the following on § 87(2)(b)'s domestic incident report, "At time, place, location, § 87(2)(b) engaged in fight with § 87(2)(b) causing physical injuries to her forehead, right eye, and face" (encl. 24d).

#### CCRB Statement: PO Terrence Delgado

On February 6, 2008, PO Delgado and PO Cardona responded to a radio call regarding a dispute between § 87(2)(b) and § 87(2)(b) at § 87(2)(b) § 87(2)(b) in the Bronx. Supposedly, the dispute became an assault in progress involving a knife. When Officers Delgado and Cardona arrived at the apartment, they knocked on the door. Lt. Mullen and PO Acker arrived at the same time. When they knocked, § 87(2)(b) rushed out of the apartment. PO Delgado stopped and questioned § 87(2)(b) § 87(2)(b) who seemed nervous, stated that something happened in the back room and that something was going on between § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) told the officer that she needed to go to school. PO Delgado explained to § 87(2)(b) that she could not leave, because they had to make sure everyone was ok. While PO Delgado spoke to § 87(2)(b) he was standing inside the apartment by the front entrance. From his position, PO Delgado saw a hallway, but could not see the corner of the hallway. During this time, the other officers were inside the apartment, searching for the women. PO Delgado stated that most of the apartment doors were locked and no one was exiting the rooms. From his position, PO Delgado was only able to see one locked door that one of the officers knocked on but was unable to open. The officers were saying, "Police Department. Police officers, anyone hurt?"

At that point, § 87(2)(b) and § 87(2)(b) exited the bathroom. PO Delgado denied that he or any other officer drew or pointed their weapons at the women. From PO Delgado's position, which was approximately eight feet away, he saw that both women were intoxicated and started to swing at Lt. Mullen. PO Delgado explained that the women were intoxicated because of the way they were acting, their sluggish talk, and the smell of alcohol. He also observed one of the females with bruises on her face. PO Delgado observed § 87(2)(b) swing at Lt. Mullen with her hand when they did not want to be placed under arrest. PO Delgado observed § 87(2)(b) make contact with Lt. Mullen from behind near his right shoulder. Though PO Delgado observed § 87(2)(b) swing at the lieutenant, he did not recall exactly how she swung at him. PO Delgado explained that the women were going to be placed under arrest because they each had bruises. PO Delgado stated that the women were resisting arrest when they swung their arms and kicked their legs. During this time, PO Delgado was facing § 87(2)(b) but could look over and see the scene before him.

§ 87(2)(b) was also cursing and swinging her arms at the officers, while she was saying, "We are ok. We do not need you anymore. We don't need any help." PO Delgado did not recall the profanity § 87(2)(b) used. As this took place, the officers were telling the women, "Don't move. Pull your arm out." The women needed to be restrained since they failed to comply with the officers' verbal commands. At that point, Lt. Mullen, PO Cardona, and PO Acker were trying to get the women in handcuffs. § 87(2)(b)

and § 87(2)(b) were swinging at PO Cardona and PO Acker, but PO Delgado did not see the women make contact with either officer's face or body. PO Delgado stated that he did not observe any officer use any type of physical instrument to restrain the women. During this time, PO Delgado was busy watching § 87(2)(b) at the apartment door. PO Delgado stated that he observed the women being handcuffed, but did not recall who handcuffed them. PO Delgado denied hearing Lt. Mullen use profanity toward § 87(2)(b) or make remarks based on her sexual orientation. PO Delgado denied seeing the women slammed to the ground. He also denied seeing Lt. Mullen strike any female with his nightstick.

PO Delgado did not recall who transported the women to the stationhouse. PO Delgado denied that he did not provide § 87(2)(b) with his name and badge number. Once at the stationhouse, PO Delgado took pictures of § 87(2)(b) and § 87(2)(b)'s injuries as part of the domestic violence incident reports. PO Delgado stated that § 87(2)(b) had bruises to her lower lip and eye, but did not recall what bruises § 87(2)(b) had.<sup>11</sup> PO Delgado also saw one of the women with an injury to her leg. PO Delgado stated that he later found out that the incident took place because § 87(2)(b) went to a lesbian strip club and § 87(2)(b) did not like this.

When asked if § 87(2)(b) was taken to an interview room to be questioned, PO Delgado stated that this did not occur. When asked about § 87(2)(b)'s strip-search, PO Delgado stated that it is procedure to have a female officer escort a female prisoner to the bathroom and search their outer garments, pockets, and wallet to make sure they have no weapons. He stated that § 87(2)(b) was not strip-searched. PO Delgado did not recall who the female officer was who took § 87(2)(b) into the bathroom. PO Delgado stated that it would not be documented in the command log because he stated that when a female prisoner arrives at the stationhouse any available female officer searches her quickly in front of the desk.

#### **Lt. Brian Mullen**

On February 6, 2008, Lt. Brian Mullen, a 5'10" § 87(2)(b)-old white male, worked in uniform with PO Chris Acker. The lieutenant worked a 6:50am to 3:25pm tour. He was assigned as the second platoon commander. Lt. Mullen did not have his memo book present during the interview (encl.17a-17c). The undersigned called Lt. Mullen on July 28, August 26, August 27, August 28, and September 2, 2008 to request a copy of his relevant memo book entry. He did not provide his memo book entries.

#### CCRB Statement: Lt. Brian Mullen

On February 6, 2008, Lt. Mullen heard a radio run regarding an assault with a knife at § 87(2)(b) § 87(2)(b) in the Bronx. Lt. Mullen got into his marked vehicle by himself and responded to the scene. Lt. Mullen stated that he did not recall if he was the first unit to arrive at the location, but stated that he believed all the responding officers arrived at the scene at the same time. Lt. Mullen did not know how many officers responded to the location.

Once there, Lt. Mullen observed evidence of a fight in the hallway by the entrance of the apartment. The lieutenant observed blood and hair on the floor. The officers were banging on the apartment door for quite a while before § 87(2)(b) opened the door. Before § 87(2)(b) opened the door, Lt. Mullen heard noises coming from inside the apartment. Once the apartment door was open, § 87(2)(b) was pulled out of the apartment and Lt. Mullen asked her what was going on. § 87(2)(b) informed the officers that § 87(2)(b) and § 87(2)(b) were fighting inside the apartment. Lt. Mullen asked the woman if there was a knife involved. § 87(2)(b) stated that there was one.

Lt. Mullen entered the apartment and searched for the women. The lieutenant observed that the apartment was messy, but did not hear anyone moving inside the apartment. The officers walked through the living room and checked all the rooms. Once by the bathroom, Lt. Mullen observed that the door was closed and heard people screaming through the door. Lt. Mullen did not recall what the women were saying. However, he stated that the women refused to open the door. Lt. Mullen banged on the door since he was told that one of them had a knife and did not know if someone was being "cut up" in the bathroom.

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<sup>11</sup> Later in the interview, PO Delgado stated that both women had bruises to their lips and face. He stated that the women got the injuries when they were hitting each other while they were intoxicated.

Lt. Mullen gained entry into the bathroom by pushing the door open. The lieutenant observed § 87(2)(b) and § 87(2)(b) “crouch down” in the bathtub. Lt. Mullen stated that he was not the only officer inside the bathroom. However, he did not recall who the officers were. Lt. Mullen immediately grabbed § 87(2)(b) and dragged her out of the bathroom and into the living room by pulling her arms since he did not know if she had the knife. As the lieutenant was dragging § 87(2)(b) out of the bathroom, he told her, “Get down on the floor.” § 87(2)(b) did not comply with his instructions and started to flail her arms and kick his thighs several times. Besides kicking his thighs, § 87(2)(b) might have struck the lieutenant on his arms as she was flailing her arms. During this time, § 87(2)(b) was screaming, but the lieutenant did not recall what she was saying. Lt. Mullen stated that he did not receive any injuries from the kicks but he had heel prints on his pants. The lieutenant did not recall if any of the other officers were injured.

As § 87(2)(b) was kicking Lt. Mullen, he told her, “Stop kicking me.” The lieutenant tried to grab her legs, but was unable to do so. Since Lt. Mullen could not get § 87(2)(b) to stop, he proceeded to hit her twice with his nightstick on her legs. Lt. Mullen did not recall where exactly on her legs he hit her. After Lt. Mullen struck § 87(2)(b) she continued to fight him. Less than a minute later, Lt. Mullen was finally able to roll § 87(2)(b) over and place her in handcuffs. Before using his nightstick, Lt. Mullen stated that he did not use any other forms of physical force except for pulling her arms. Lt. Mullen explained that he was trying to grab her hands in order to control her. During that time, Lt. Mullen did not receive any assistance from the other officers.

At the same time, Lt. Mullen observed § 87(2)(b) resisting the other officers by kicking and screaming. Lt. Mullen did not recall which officers were handling § 87(2)(b). Lt. Mullen did not know if § 87(2)(b) made contact with the other officers when she was kicking at them. Nonetheless, § 87(2)(b) was grabbed, turned around, and handcuffed. Lt. Mullen did not recall who handcuffed her. Afterward, Lt. Mullen observed that the women had bruises and scratches on their faces. The lieutenant stated that the injuries were caused by the women hitting each other. According to his investigation, the women had a dispute with one another and were ex-girlfriends. Lt. Mullen instructed the other officers that § 87(2)(b) and § 87(2)(b) were going to be placed under arrest.

§ 87(2)(b) and § 87(2)(b) were then transported to the stationhouse. However, the lieutenant did not recall who escorted the women to the stationhouse, nor did he recall if the knife was recovered. At the stationhouse, Lt. Mullen did not have contact with the women and he stated that he was in and out of the stationhouse during the day. Lt. Mullen also did not recall if the women went to the hospital for medical attention.

Lt. Mullen denied drawing or pointing his weapon at the women. He denied seeing any officers doing so. The lieutenant denied making any remarks based on § 87(2)(b)'s sexual orientation or using profanity toward her. Lt. Mullen did not hear § 87(2)(b) request PO Delgado's name. He denied that he authorized § 87(2)(b) to be strip-searched and did not know if any other commanding officer authorized a strip-search. Lt. Mullen stated that he did not know if an officer questioned § 87(2)(b) while she was at the stationhouse.

#### **PO Chris Acker**

On February 6, 2007, PO Chris Acker, a 6'0" § 87(2)(b)-old white male, worked in uniform with Lt. Brian Mullen. The officer worked a 7:05am to 3:40pm tour. He was assigned as the lieutenant's operator. PO Acker had no memo book entries regarding the incident even though he had his memo book present for the interview (encl. 18a-18b).

#### CCRB Statement: PO Chris Acker

On February 6, 2008, PO Acker heard a radio call regarding an assault in progress with a knife. PO Acker did not hear any physical descriptions of any individuals involved in the assault. PO Acker got in his patrol car by himself and responded to the scene. Lt. Mullen had left the stationhouse before PO Acker due to the nature of the call. When PO Acker arrived at the location, he saw PO Cardona, PO Delgado, and Lt. Mullen. PO Acker also observed people exiting the building and stated that there were both male and

female officers and civilians outside the apartment complex. PO Acker did not recall how many people were exiting the building.

PO Acker did not recall how many female civilians were at the scene or their physical conditions. PO Acker did see two women being escorted to the police vehicle to be transported to the stationhouse. PO Acker did not recall who transported the women. PO Acker was at the scene for approximately two minutes and then returned to the stationhouse. PO Acker did not recall how long he was at the stationhouse before he left with Lt. Mullen to go back on patrol. Lt. Mullen did not mention anything regarding the incident.

The undersigned presented photographs of § 87(2)(b) and § 87(2)(b) to PO Acker. The officer did not recall seeing the women. PO Acker denied that § 87(2)(b) asked for his name and badge number and stated that he did not have any physical or verbal contact with her inside or outside the apartment. PO Acker stated that he did not interact with any of the civilians.

#### **PO Victor Cardona**

On February 6, 2008, PO Victor Cardona, a 6'0" § 87(2)(b)-old Hispanic male, worked in uniform with PO Terrance Delgado. The officer worked a 7:05am to 3:40pm tour and was assigned to a common sector. PO Cardona did not have his memo book present during the interview (encl. 20a-20b). The undersigned called PO Cardona on July 28, August 26, August 27, August 28, and September 2, 2008 to request a copy of the relevant entry. He did not provide his memo book entries.

#### CCRB Statement: PO Victor Cardona

On February 6, 2008, PO Cardona and PO Delgado responded to an assault in progress at § 87(2)(b) § 87(2)(b) in the Bronx. Once at the scene, the officers knocked on the door and § 87(2)(b) answered it. PO Cardona did not recall if he and PO Delgado were the first officers to arrive at the location. The officer stated that he did not remember if she said anything and did not remember if she was involved in the criminal complaint. When PO Cardona entered the apartment, he asked if there was anyone inside the residence. PO Cardona saw that the bathroom door was closed and he "jingled" the doorknob. PO Cardona saw that the door was locked. PO Cardona stated that he could not remember if any other officers were inside the apartment at this time.

PO Cardona discovered that § 87(2)(b) and § 87(2)(b) were hiding inside the bathroom once they exited the room. Once the women exited the bathroom, PO Cardona was able to see visible injuries on them.<sup>12</sup> At that point, the women were yelling at one another. However, the officer did not remember what they were arguing about. PO Cardona did not recall who handcuffed the women but stated that they were placed under arrest for assaulting each other. PO Cardona did not recall if the women resisted arrest. He also did not remember what PO Delgado was doing at the time and stated that he did not recall if any other officers arrived at the scene. He also did not recall who transported the women to the stationhouse and did not recall recovering a knife. PO Cardona stated that he might have seen PO Acker and Lt. Mullen as they were exiting the apartment, but is not sure. PO Cardona stated that neither he nor his partner called for assistance.

Once at the stationhouse, PO Cardona secured § 87(2)(b) and § 87(2)(b) in the holding cell. The officer asked § 87(2)(b) how she got the mark on her face. Either § 87(2)(b) or § 87(2)(b) stated that she was hit with a watch. The undersigned then presented PO Cardona with § 87(2)(b) and § 87(2)(b)'s photographs. PO Cardona stated that he vaguely remembered § 87(2)(b) and that he thinks § 87(2)(b) was the female who had the mark on the face. PO Cardona did not recall if any contraband or weapons were found on either woman.

PO Cardona denied seeing Lt. Mullen and PO Acker use physical force against the women. He denied that he used physical force against or spoke profanely toward them. He did not hear Lt. Mullen make any remarks based on § 87(2)(b)'s sexual orientation and did not see him strike § 87(2)(b) with a nightstick. The officer did not hear § 87(2)(b)'s request for PO Acker and PO Delgado's names and

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<sup>12</sup> PO Cardona then stated that one female had a mark that resembled ridges on her face, while he did not remember seeing injuries to the other woman.

badge numbers. He was not aware that § 87(2)(b) was strip-searched and denied questioning § 87(2)(b). PO Cardona also denied having his weapon drawn and pointed at § 87(2)(b).

#### Roll Call

The roll call indicates that PO Terrance Delgado from the 44<sup>th</sup> Precinct worked with PO Victor Cardona. The roll call also indicates that Lt. Brian Mullen worked with PO Chris Acker (encl. 22a-22q).

#### Command Log

The command log indicates that at 7:45am PO Delgado arrested § 87(2)(b) and § 87(2)(b) for § 87(2)(b). The command log indicates that § 87(2)(b) had a swollen, cut lip and § 87(2)(b) had cuts and abrasions on her face. Both women were transported to Bronx Central Booking at 2:35pm. The command log also indicates that neither woman requested medical attention (encl. 23a).

#### Sprint Print-Out

On February 6, 2008, at 7:18am, § 87(2)(b) called 911 and hung up the phone before she stated what her emergency was. At approximately 7:30am, § 87(2)(b) called 911 and reported that she locked herself in the bathroom since § 87(2)(b) attempted to stab her. She reported that she had a physical dispute and § 87(2)(b) attempted to kick down the door. The Sprint notes that § 87(2)(b) is heard in the background trying to kick down the door. At approximately 7:47am, the officers reported that they had two individuals under arrest (encl. 25a-25c).

#### Notice of Claim

According to the Office of the Comptroller, no Notice of Claim has been filed for this case (encl. 27a).

#### CCRB History

§ 87(2)(b) has not filed any prior CCRB complaints. Lt. Brian Mullen, a fourteen-year veteran of the NYPD, has had no substantiated CCRB complaints. PO Terrance Delgado, a two-year veteran of the NYPD, has had no substantiated CCRB complaints. PO Victor Cardona, a four-year veteran of the NYPD, has had no substantiated CCRB complaints. PO Chris Acker, a twenty-two year veteran of the NYPD, has had three substantiated CCRB complaints regarding physical force, stop, question, refusal to obtain medical treatment, discourtesy, and refusal to provide his name and shield in CCRB cases 200307549, 200408916, and 200601691.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Conclusions and Recommendations

#### Officer Identification

§ 87(2)(b) alleges that only four officers including Lt. Mullen were at the apartment at the time of the incident. § 87(2)(b) identified Lt. Mullen when she saw his nameplate and PO Acker when she saw his badge number. She also identified PO Delgado as her arresting officer. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that another lieutenant beside Lt. Mullen was present during the incident and struck § 87(2)(b) with his nightstick. § 87(2)(b) and the officers interviewed made no claim that a second lieutenant was present during the incident.

§ 87(2)(b) alleged that PO Acker and an unidentified white officer with blue-green eyes slammed her and § 87(2)(b) to the floor. § 87(2)(b) alleged that she did not observe who brought § 87(2)(b)

§ 87(2)(b) to the ground but stated that a “chunky” white officer slammed her to floor. § 87(2)(g)

§ 87(2)(b) alleged that while she was being transported to the stationhouse, she asked PO Delgado and the “chunky” officer for their names and badge numbers. § 87(2)(b) testified that that PO Delgado and PO Cardona transported them to the stationhouse § 87(2)(g)

§ 87(2)(b) alleged that while she was at the stationhouse, a white female officer brought her into the bathroom and instructed her to remove her shirt and unclasp her bra. According to the roll call, sixteen white and Hispanic females were working at the time. § 87(2)(g)

#### Allegations Not Pled

§ 87(2)(b) alleged that once she was on the ground, she heard an officer say, “Shut the fuck up. These are lesbian bitches. This is bullshit. This is fuckin’ lesbian bullshit.” Though § 87(2)(b) testified that she did not see which officer allegedly made the statements, she testified that Lt. Mullen made a nearly identical remark. § 87(2)(g)

§ 87(2)(g)

#### Undisputed Facts

It is undisputed that § 87(2)(b) and § 87(2)(b) had an argument that turned into a physical altercation. After the altercation, § 87(2)(b) called 911 and reported that § 87(2)(b) was attempting to stab her. Lt. Mullen, PO Delgado, PO Cardona, and PO Acker responded to the location. § 87(2)(b) and § 87(2)(b) resisted arrest and Lt. Mullen struck § 87(2)(b) with his nightstick. Both women were then placed under arrest for assaulting each other.

#### Disputed Facts

§ 87(2)(g)

#### Assessment of Evidence

§ 87(2)(b) and § 87(2)(b) had a verbal dispute after § 87(2)(b) returned home from a nightclub. The argument between the women became physical and § 87(2)(b) testified that she struck § 87(2)(b) in the face and pushed her against the wall. § 87(2)(b) testified that she never struck § 87(2)(b) but grabbed her hair. § 87(2)(b)'s roommate, § 87(2)(b) came in between the women and separated them. At this point, § 87(2)(b) locked herself in the bathroom, called the police, and reported that § 87(2)(b) attempted to stab her with a knife.

Lt. Mullen and Officers Delgado, Cardona, and Acker arrived at § 87(2)(b)'s apartment after they received the radio call regarding an assault in progress with a knife. Once at the location, Lt. Mullen and PO Delgado stated that § 87(2)(b) let them inside the apartment and informed them that § 87(2)(b) and § 87(2)(b) were fighting and a knife was involved. Lt. Mullen testified that he saw evidence of a physical altercation when he saw hair and blood on the floor. The lieutenant also testified that the apartment was messy and heard screaming inside the bathroom. Lt. Mullen pushed open the door and observed § 87(2)(b) and § 87(2)(b) inside the bathroom. The lieutenant admitted that he grabbed § 87(2)(b) and placed her on the floor. PO Cardona testified that the bathroom door was locked and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) exited the bathroom on their own. PO Delgado also testified that he saw the women exit the bathroom on their own.

In her phone statement, § 87(2)(b) alleged that once the bathroom door was opened, six officers had their weapons pointed at them. When interviewed, § 87(2)(b) alleged three officers had their weapons pointed at them. § 87(2)(b) alleged it was one officer who had his weapon pointed at her. None of the officers admitted that they had their weapons drawn or pointed during the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that once the officers had their weapons drawn one of the officers instructed her to “get the fuck out of the bathroom.” § 87(2)(b) did not mention the allegation in her statement and stated that an officer instructed her to “freeze.” None of the officers testified that they heard another officer use profanity toward § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b). During her CCRB interview, § 87(2)(b) initially alleged that once they exited the bathroom, PO Acker and an unidentified white male officer with blue-green eyes grabbed her and § 87(2)(b) and slammed them to the floor. Later in the same interview, § 87(2)(b) stated that when the officers instructed her and § 87(2)(b) to exit the bathroom, they complied with the officers’ instructions and lay on the floor on their own. § 87(2)(b) initially testified that § 87(2)(b) exited the bathroom first and she immediately closed the door and jumped in the tub so that the officers would not see her bruised eye. When she heard a “boom” outside the bathroom door, § 87(2)(b) opened the door and saw an unidentified uniformed officer pointing his weapon at her. At this point, the officer told her to “freeze,” pulled her by her shirt, and slammed her face down to the ground. § 87(2)(b) later stated that when she saw the unidentified officer point his weapon at her, she closed the door, and jumped into the tub. The unidentified officer then entered the bathroom pulled her out of the bathtub, and out of the bathroom, and threw her to the floor.

Lt. Mullen testified that when he pushed open the bathroom door he grabbed § 87(2)(b) and pulled her out of the bathroom. He did not state that he pulled § 87(2)(b) out of the bathroom. PO Acker testified that he did not enter the apartment while Officers Cardona and Delgado denied that they had physical contact with the women inside the apartment. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) also alleged that Lt. Mullen told her to “Shut the fuck up. This is fuckin’ a whole bunch of lesbian bullshit.” § 87(2)(b) testified that she did hear the lieutenant say “shut the fuck up,” but she did not hear the lieutenant say the remark based on § 87(2)(b)’s sexual orientation. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

In her CCRB interview, § 87(2)(b) alleged that only Lt. Mullen struck her with a nightstick, and that he did so approximately four times. In her phone statement, § 87(2)(b) alleged that Lt. Mullen and PO Acker struck her approximately seven times with their nightsticks. § 87(2)(b) claimed that Lt. Mullen and another unidentified lieutenant struck § 87(2)(b) with their nightsticks. § 87(2)(b) claimed that she was lying on her right side when Lt. Mullen was hitting her. § 87(2)(b) stated that § 87(2)(b)

was lying on her back with her left leg in the air higher than her right leg bent toward her chest. Lt. Mullen testified that § 87(2)(b) was kicking him and flailing her arms at him. He stated that § 87(2)(b) did not comply with his instructions when he told her to stop kicking him. The lieutenant tried to grab her legs, but was unable to do so. For that reason, Lt. Mullen admitted that he struck § 87(2)(b) twice on her legs with his nightstick. PO Delgado testified that he observed § 87(2)(b) hit Lt. Mullen on the back near his right shoulder. He also saw her kicking the lieutenant. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that as a result of Lt. Mullen striking her with his nightstick she received injuries to her breast, lip, and left leg. PO Delgado noted in the domestic incident report that § 87(2)(b) and § 87(2)(b) had a fight that caused § 87(2)(b) injuries to her chest, lip, and left leg. § 87(2)(b) and § 87(2)(b) testified that they had a physical altercation inside the apartment before the officers arrived at the scene. § 87(2)(b) stated that the fight lasted for five minutes. PO Delgado and PO Cardona testified that once they first saw the women they had visible injuries to their faces. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) claimed that she asked PO Delgado and a “chunky” officer for their names and shield numbers. § 87(2)(b) stated that PO Delgado and PO Cardona transported them to the stationhouse. § 87(2)(b) did not mention in her statement that § 87(2)(b) requested the officers’ names and shield numbers. Both officers denied that § 87(2)(b) requested their identification. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that while she was at the stationhouse she was strip-searched by an unidentified white female officer. The undersigned attempted to contact § 87(2)(b) to see if she could identify a potential subject officer. However, § 87(2)(b) did not contact the undersigned regarding the case.

**Allegation A: At § 87(2)(b) in the Bronx, officers pointed their weapons at § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) called 911 and reported that § 87(2)(b) menaced her with a knife. When the officers arrived at the location, § 87(2)(b) and § 87(2)(b) were inside the bathroom. § 87(2)(b) and § 87(2)(b) alleged that once the bathroom door was opened, officers had their weapons pointed at them. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) *PD v. Gliner* established that “the Department permits an officer broad discretion to display his weapon whenever he feels that his life or the life of another is endangered” (encl.1a-1u). § 87(2)(g)

**Allegation B: At § 87(2)(b) in the Bronx, an officer spoke obscenely and/or rudely to § 87(2)(b)**

As noted in the Assessment of Evidence, § 87(2)(b) did not mention the allegation in her statement. The officers denied that it occurred. § 87(2)(g)

§ 87(2)(b)

**Allegation C: At § 87(2)(b) in the Bronx, PO Chris Acker used physical force against § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)



**Allegation D: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)**

§ 87(2)(b) testified that she was hiding inside the bathroom while officers were struggling to handcuff § 87(2)(b) § 87(2)(g)

**Allegation E: At § 87(2)(b) in the Bronx, Lt. Brian Mullen made remarks to § 87(2)(b) based upon her perceived sexual orientation.**

§ 87(2)(g)

**Allegation F: At § 87(2)(b) in the Bronx, Lt. Brian Mullen spoke obscenely and/or rudely to § 87(2)(b)**

§ 87(2)(g)

**Allegation G: At § 87(2)(b) in the Bronx, Lt. Brian Mullen struck § 87(2)(b) with a nightstick.**

As established in the Assessment of Evidence, § 87(2)(b) resisted arrest when she flailed her arms, struck the lieutenant on the shoulder, and kicked him. § 87(2)(b) did not comply with Lt. Mullen's instructions and the officer was unable to control her. According to *Police Department v. Freeman*, "in effecting an arrest, a police officer is permitted to use reasonable force to take a suspect into custody or to defend himself from the 'imminent use of physical force' by another" (encl.2a-2f) § 87(2)(g)

**Allegation H: En route to the 44<sup>th</sup> Precinct stationhouse, PO Victor Cardona refused to provide his name and shield number to § 87(2)(b)**

**Allegation I: En route to the 44<sup>th</sup> Precinct stationhouse, PO Terrence Delgado refused to provide his name and shield number to § 87(2)(b)**

§ 87(2)(g)

**Allegation J: At the 44th Precinct stationhouse, an officer strip-searched § 87(2)(b)**

§ 87(2)(g)

Investigator:  
Jacqueline Asencio

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date:

